

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	
v.	:	Criminal No. 14-CR-512
SUPREME FOODSERVICE GMBH,	:	Filed Under Seal
f/k/a SUPREME FOODSERVICE AG	:	
SUPREME FOODSERVICE FZE	:	

**UNOPPOSED MOTION OF UNITED STATES OF AMERICA FOR
ORDER TO AUTHORIZE CLERK OF COURT TO ACCEPT
PREPAYMENT OF ANTICIPATED MONETARY PENALTIES AND TO SEAL**

The United States of America, by its attorneys, Zane David Memeger, United States Attorney for the Eastern District of Pennsylvania, and Bea L. Witzleben, Assistant United States Attorney, pursuant to 28 U.S.C. §§ 2041 and 2042, moves for an order authorizing the Clerk of Court to: 1) accept prepayment of anticipated monetary penalties prior to sentencing, 2) maintain such payment on deposit until sentencing; and, 3) upon entry of judgment, withdraw and apply such funds to any restitution and fine imposed against the defendant as part of the sentence, and further transfer to the United States Marshal Service any portion of the deposited funds ordered forfeited as part of the sentence imposed. Because the Information underlying this case is still under seal, the government also respectfully requests that this Motion and Order be filed under seal until the Information is unsealed. In support of this Motion, the government avers as follows:

1. On September 24, 2014, the United States Attorney filed an Information charging the defendants with major fraud against the United States, in violation of 18 U.S.C. § 1031, conspiracy to commit major fraud against the United States, in violation of 18 U.S.C. § 371, and

wire fraud, in violation of 18 U.S.C. § 1343. The Information charges a scheme in which the defendants deliberately overbilled the government in connection with a “Subsistence Prime Vendor” contract issued by a component of the Department of Defense, pursuant to which defendant Supreme Foodservice AG was to provide food and water for the U.S. troops serving in Afghanistan.

2. The Information was filed pursuant to plea agreements in which the defendants agreed to enter guilty pleas pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C). The Information was filed under seal because the guilty pleas are not yet ready to be filed, since they are conditioned on certain approvals from the Department of Justice which have not yet been obtained.

3. Among other things, the plea agreements provide that prior to sentencing – indeed, even prior to the entry of guilty pleas or the receipt of the Department of Justice approvals mentioned above -- the lead defendant will deposit certain specified sums to be applied to the monetary penalties imposed at the at the time of sentencing, including criminal fines, restitution, and forfeiture. (Special assessments will be paid separately).

4. Defendant Supreme Foodservice AG has agreed to deposit the sum of \$250,000,000 (which includes \$96,000,000 for co-defendant Supreme FZE’s fine) with the Clerk of the Court no later than five business days after this Court enters an order authorizing the deposit. As neither defendant will have been sentenced by that date, the Clerk of the Court cannot accept this payment without an order from the Court.

5. Pursuant to the plea agreements, the government intends to seek the following monetary penalties at the time of sentencing: restitution from Supreme Foodservice AG in the amount of \$48,000,000; a fine against Supreme Foodservice AG in the amount of

\$96,000,000; criminal forfeiture from Supreme Foodservice AG in the amount of \$10,000,000; and a fine against Supreme Foodservice FZE in the amount of \$96,000,000. Special assessments from Supreme Foodservice AG totaling \$1200 and a special assessment from Supreme Foodservice FZE in the amount of \$400 will also be collected.

6. Pursuant to 28 U.S.C. § 2041, the defendants are authorized to pay such funds in to the Court, and the Clerk of Court is authorized to accept and hold such funds in a designated depository account until the time of sentencing.

7. Furthermore 28 U.S.C. § 2042 provides that the “no money deposited under the section 2041 * * * shall be withdrawn except by order of the court.”

8. Pursuant to Section 2042, the government requests that this Court order the Clerk of Court, upon entry of criminal judgment in this case, to withdraw and apply the deposited funds to the criminal financial obligations imposed against the defendant.

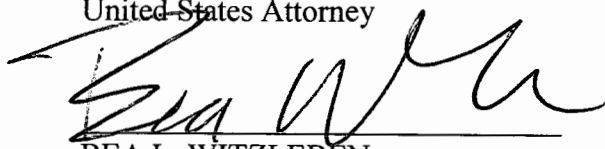
9. The government submits that it is in the interests of justice to allow the Clerk of Court to accept the payment from the defendants.

10. The government submits that it is in the interests of justice for this matter to be sealed until the Information is unsealed.

WHEREFORE, for the reasons stated above, the government requests that this Court grant this Motion. Proposed forms of Order are attached.

Respectfully submitted,

ZANE DAVID MEMEGER
United States Attorney



BEA L. WITZLEBEN
Assistant United States Attorney

Date: 9-25-14

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that on this date, I caused a true and correct copy of the Unopposed Motion of United States of America for Order to Authorize Clerk of Court to Accept Prepayment of Criminal Financial Obligations to be filed under seal, and served on counsel for the defendants as follows:

Thomas Gallagher, Esq.
Pepper Hamilton LLP
3000 Two Logan Square
Eighteenth and Arch Streets
Philadelphia, PA 19103
Counsel for the Defendants
Via email to: gallaght@pepperlaw.com

A handwritten signature in black ink, appearing to read "Bea Witzleben", written over a horizontal line.

BEA L. WITZLEBEN
Assistant United States Attorney

Date: September 25, 2014